

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

BIOVAIL CORPORATION, EUGENE MELNYK, BRIAN
CROMBIE, JOHN MISZUK AND KENNETH HOWLING,

Defendants.

08-CV-02979 (LAK)

**NOTICE OF JOHN
MISZUK'S MOTION TO
DISMISS THE SECURITIES
AND EXCHANGE
COMMISSION'S
COMPLAINT**

Oral Argument Requested
ECF Case

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law and Declaration of Bruce A. Hiler, dated June 23, 2008, and all exhibits annexed thereto, defendant John Miszuk ("Defendant") will move this Court before the Honorable Lewis A. Kaplan, at the United States District Court for the Southern District of New York, located at 500 Pearl Street, New York, New York, 10007-1213, at a date and time to be determined by the Court, pursuant to Rules 12(b)(6) and 9(b) of the Federal Rules of Civil Procedure, for an order dismissing the claims for Violations of the Federal Securities Laws asserted against Defendant in the Securities and Exchange Commission's Complaint, dated March 24, 2008, and for other and further relief the Court deems just and proper.

Dated: June 23, 2008

CADWALADER, WICKERSHAM & TAFT LLP

CADWALADER, WICKERSHAM & TAFT LLP

By: /s/ Bruce A. Hiler

Bruce A. Hiler (BH 0432)

Jodi A. Avergun (JA 9459)

Thomas A. Kuczajda (TK 6993)

Mollie E. O'Rourke (MO 1165)

One World Financial Center

New York, NY 10281

212-504-6000 (tel.)

212-504-6666 (fax)

Attorneys for Defendant John Miszuk